

**JACOB MATHEW VS. STATE OF PUNJAB & OTHERS (2005) 6 SCC 1**

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**Aryaman Gupta\***

**FACTS OF THE CASE**

After filing a First Information Report with the police station, Ashok Kumar Sharma, the second respondent in this case, registered an offense under Section 304A, read with Section 34 of the Indian Penal Code. The essence is that the informant's father, late Jeevan Lal Sharma, was admitted as a patient in a ward of CMC Hospital, Ludhiana, on 15.2.1995.

On 22.2.1995, at approx 11.00 P.M., Jeevan Lal felt difficulty breathing, so Vijay Lal Sharma (elder brother of the complainant) contacted the nurse on duty at that time, who called the doctor to check the patient, but no doctor came to attend the patient up to 20-25 minutes. The appellant in the case, Dr. Jacob Mathew, and Dr. Allen Joseph, entered the patient's room. The patient's mouth was attached to an oxygen cylinder, but the breathing only worsened. It was discovered that the oxygen tank was empty. There was not another gas cylinder in the space. In the adjacent room, Vijay Sharma went to fetch a gas cylinder. It took 5 to 7 minutes to fill the gas cylinder, but there was no setup to make it work. By this point, a different medical professional pronounced the patient dead. The latter part of the FIR states (as per the translation in English as filed by the complainant) "the death of my father was occurred due to the carelessness of doctors and nurses and non-availability of oxygen cylinder and the empty cylinder was fixed on the mouth of my father and his breathing was totally stopped hence my father died. I sent the dead body of my father to my village for last cremation and for information I have come to you. Suitable action be done Sd/- ---- As per statement of intimator the death of Jeevan Lal Sharma has occurred due to carelessness of doctors and nurses concerned and to fit empty gas cylinder."

An offence under Section 304A/34 IPC was registered and investigated based on the aforementioned report. The two doctors were the targets of a lawsuit. In an appeal under section 482 of the Code of Criminal Procedure, the appellant asked the High Court to throw out the FIR and all related proceedings. The single experienced judge who heard the petition concluded

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that there was insufficient evidence to quash the accusation. Feeling aggrieved by the orders of the High Court, the appellant approached the Supreme Court by Special Leave.

### **APPELLANT'S ARGUMENT**

The dead Jeevan Lal, according to the appellant, had cancer that was advanced in stage, and based on the information at hand, no hospitals in the nation would have admitted him because he had terminal cancer. He was just required to be kept at home, given appropriate care, food, comfort, and prayers. The records, however, make it evident that his sons are potent individuals holding significant positions in government. They asked the hospital administrators to allow their father to be admitted to the facility under any circumstances, including based on compassion, to receive controlled medical care and adequately manage his nutrition. The informant and his other family members who had travelled with the dead were amply informed that the ailment was of such a kind and had progressed to such a grave level that comfort and tranquillity could only be found at home. Nevertheless, the complainant succeeded in getting the deceased accepted as a patient by outwitting the attending physicians and hospital administration. Nevertheless, the patient received the highest care, caution, and medical aid from the doctors and paramedical staff. The attending staff, including doctors, nurses, and other paramedical staff, made every effort imaginable to provide the patient with the proper medical care, and the entire staff danced in attendance over the patient. However, what was predestined to happen did occur. The complainant and his relatives filed a police report against the accused people that was completely unnecessary and uncalled for since they were misinformed or believed the facts to be false.

### **ISSUES BEFORE THE SC**

- Is there a difference in civil and criminal law on the concept of negligence?
- Whether a different standard is applicable for recording a finding of negligence when a professional, in particular, a doctor is to be held guilty of negligence?

### **JUDGEMENT OF SC**

- A professional may be held accountable for negligence based on one of two conclusions: either he did not own the necessary expertise that he claimed to have possessed, or he did not exercise the talent that he did possess with reasonable competence in the particular circumstance.

- The court determined that none of the allegations in the lawsuit, even if found faithful, establishes the doctor's criminal recklessness or negligence (appellant).
- In both civil and criminal law, the idea of carelessness is construed differently. What is carelessness under civil law may not always be carelessness under criminal law.
- It is not the complainant's case that the accused-appellant lacked the medical training to treat the patient he pledged to care for. It is a situation where no oxygen cylinder is accessible, either because the hospital forgot to have one on hand or because the gas cylinder was discovered to be empty. Consequently, the hospital administration will likely face civil liability (or not; we express no view on this), but the accused-appellant cannot be prosecuted under Section 304-A of the IPC based on the results of Bolam's test.

### **RATIONALE BEHIND THE JUDGEMENT**

Negligence is the failure to uphold a responsibility due to doing something that a sensible and reasonable person would avoid doing or failing to do something that a reasonable person would do under the circumstances. Negligence in the setting of the medical profession necessitates a unique approach to therapy. In civil and criminal law, the idea of carelessness is construed differently. What is carelessness under civil law may not always be carelessness under criminal law. A lawyer never assures clients that they will prevail in their legal matters. A doctor will not always guarantee that the patient will recover fully. A surgeon cannot promise that the procedure's results will always be in their best interests and ultimately benefit the individual who underwent the procedure. The only assurance that such a professional may provide explicitly or implicitly is that he has the necessary training in the area of the profession in which he works and that he completes the tasks assigned to him with the necessary efficiency. Use to hone your abilities. This is what the whole person contacting a professional can expect. Given this standard, a professional may be liable for negligence on one of two conclusions: either he did not possess the requisite skills that he had accepted or had not exercised, given appropriate merit in the case. The skills he had. The standard to be applied for doing justice, whether or not the person accused has been negligent, would be an ordinary competent person exercising ordinary skills in that profession. It is not necessary for every professional in this branch to have the best level of experience

### **ANALYSIS**

According to the Bolam test “if the doctor reached up the standards set up by the responsible body of that same profession in that case, he or she is not liable for medical negligence. In that discussed case doctors are not liable because they fulfill their duties very well but due to the negligence of hospital administration, the patient was passed away. So, technically it is the case of medical negligence from the part of hospital staff. This case could be the part of Consumer Protection Law because it was the duty of the hospital administration to provide better services to the people coming in its hospital but here in this case, they were negligent on their fulfilling their duties to provide better services to their patients. So, aggrieved party could also approach consumer forums to meet justice.

#### REFERENCE

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